

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 14-CR-04075-BCW-5
)	
JAMES DELAROSA BORDEN,)	
)	
Defendant.)	

ORDER

Before the Court is Magistrate Judge Matt J. Whitworth's Report and Recommendation (Doc. #124) denying Defendant's Motions to Dismiss under Fed. R. Crim. P. 48(b)(3) (Docs. #111 & #119) and Motion for Hearing (Doc. #118). Neither party filed any objection to the Report and Recommendation (Doc. #124). After an independent review of the record, the applicable law, and the parties' arguments, the Court adopts Magistrate Judge Whitworth's findings of fact and conclusions of law. Accordingly, it is hereby

ORDERED Magistrate Judge Whitworth's Report and Recommendation is ADOPTED and made part of this order as follows. It is further

ORDERED Defendant's Motions to Dismiss under Fed. R. Crim. P. 48(b)(3) (Docs. #111 & #119) are DENIED. This Court concludes that Defendant's rights under the Interstate Agreement on Detainers Act, § 2, Art. IV(e), 18 U.S.C. App. ("IADA"), were not violated for two reasons. Defendant was only briefly transferred to federal custody under a writ of habeas corpus ad prosequendum for an arraignment and then was returned to state custody, at Defendant's request, to ensure that his state sentence was not disrupted. Baxter v. United States, 966 F.2d 387 (8th Cir. 1992). Further, Defendant failed to indicate on the Drug Enforcement

Administration Detainer form whether he was invoking his rights under the IADA. (Doc. #119-1 at 2). Neither the Government nor the Court received notice of Defendant's desire to invoke his rights under the IADA. United States v. Dooley, 580 F.3d 682 (8th Cir. 2009). It is further

ORDERED Defendant's motion for hearing (Doc. #118) in connection with these motions to dismiss is likewise DENIED.

IT IS SO ORDERED.

DATED: April 25, 2016

/s/ Brian C. Wimes

JUDGE BRIAN C. WIMES

UNITED STATES DISTRICT COURT